

R E M A R K S

The above amendment is submitted in response to the office Action of 15 November 2005. In that action the Examiner rejected claims 1,4,6,12,13,16,and 22 as being anticipated by Brooks. Claims 1-5 were rejected as being anticipated by Tuck. Claims 7-11, 17, 18, 23, 24, 26, 27 were rejected by being patentable over Brooks under 35 USC 103(a). Claims 14 and 25 were rejected as being obvious over Brooks in view of Reynaud. Claims 15 and 19 were rejected as being obvious over Brooks in view of McSpadden.

Claims 20 and 21 were rejected as being unpatentable over Brooks in view of Armstrong at el.

Applicant has submitted new claims 28-38 which are to be believed to contain patentable subject matter over the references cited by the Examiner.

Brooks describe a dental root preparation instrument which includes a shank having an abrasive 17 on the outer surface. Brooks also describes a spiral cutting portion 33 in combination with a smooth lower portion. Brooks does not show applicant's combination of elements which includes a rotatable shaft having a heat generating tip at a terminus of the distal portion and a

dentin abrading service at the proximal portion, with a composite material removing means having cutting flukes between the proximal and the distal portions. It should be noted that the Brooks device would not achieve applicants results of a continuous tapered contour of the dental canal.

Tuck describes an instrument from contouring bones. The Tuck instrument includes a tip 13C and a an abrasive section 12E. Tuck does not describe applicant's means for removing composite material located between a dentin abrading service and a heat generating tip. Thus, Tuck does not achieve applicant's results since use of Tuck for removing composite material would foul the abrading service not allow such material to be removed from the canal itself.

Reynaud describes a tip having a fusto conical shape.

McSpadden shows a cylindrical tip on a structure.

Armstrong describes a radiused edge.

Neither Reynaud, McSpadden, nor Armstrong add anything to the teaching of Tuck and Brook which would render applicant's claims obvious. In fact, the combination of Brook and Tuck with any of the other prior art references does not show or render applicant's invention obvious.

Applicant is also submitting a terminal disclaimer to overcome the rejection based on non-statutory double patenting.

It is believed that the application as amended is now in condition for allowance and the passing to issue of the

application at an early date, is earnestly solicited.

Respectfully submitted,

THEODORE J. BIELEN, JR.
Registration No: 27,420

TJB:cls

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BIELEN, LAMPE & THOEMING
1390 Willow Pass Road
Suite 1020
Concord, CA 94520

Tel: (925) 288-9720

Fax: (925) 288-9731